No. 06-179

Title:	Donna S. Riegel, Individually and as Administrator of the Estate of Charles R. Riegel, Petitioner v. Medtronic, Inc.
Docketed:	August 4, 2006
Lower Ct:	United States Court of Appeals for the Second Circuit
Case Nos.:	(04-0412)
Decision Date:	May 16, 2006

Questions Presented

~~Date~~~	~~~~~~~Proceedings and Orders~~~~~~~~~~~~~~~~~~~~~
Aug 3 2006	Petition for a writ of certiorari filed. (Response due September 5, 2006)
Aug 22 2006	Order extending time to file response to petition to and including October 5, 2006.
Oct 5 2006	Brief of respondent Medtronic, Inc. in opposition filed.
Oct 16 2006	Reply of petitioners Charles R. Riegel and Donna S. Riegel filed.
Oct 18 2006	DISTRIBUTED for Conference of November 3, 2006.
Nov 6 2006	The Solicitor General is invited to file a brief in this case expressing the views of the United States.
May 23 2007	Brief amicus curiae of United States filed.
Jun 4 2007	Supplemental brief of petitioners Charles R. Riegel and Donna Riegel filed. (Distributed)
Jun 5 2007	DISTRIBUTED for Conference of June 21, 2007.
Jun 25 2007	Petition GRANTED.
Jul 5 2007	The time to file the joint appendix and petitioners' brief on the merits is extended to and including August 27, 2007.
Aug 1 2007	Motion for Suggestion of death and motion for substitution filed by petitioner Donna Riegel
Aug 1 2007	Consent to the filing of amicus curiae briefs in support of either or neither party received from counsel for the petitioner.
Aug 7 2007	Consent to the filing of amicus curiae briefs in support of either or neither party received from counsel for the respondent.
Aug 8 2007	DISTRIBUTED for Conference of September 24, 2007 (CL 163).
Aug 10 2007	Response to motion from respondent Medtronic, Inc. filed. (Distributed)
Aug 13 2007	Reply of petitioners in support of motion filed. (Distributed)
Aug 27 2007	Joint appendix filed. (Statement of costs received.)
Aug 27 2007	Brief of petitioners Charles R. Riegel, et ux. filed.
Aug 27 2007	Brief amici curiae of New York, et al. filed.
Aug 27 2007	Brief amici curiae of Public Health Advocacy Institiute, et al. filed.
Aug 27 2007	Brief amici curiae of Edward M.Kennedy, et al. filed.
Aug 27 2007	Brief amicus curiae of Consumers Union of United States, Inc. filed.
Aug 27 2007	Brief amicus curiae of American Association for Justice and Public Justice filed.
Aug 27 2007	Brief amici curiae of AARP, et al. filed.
Sep 5 2007	The time within which to file respondent's brief on the merits is extended to and including October 19, 2007.

Oct 1 2007	The motion of Donna Riegel, the administrator of the Estate of Charles R. Riegel, to be substituted in place of Charles R. Riegel, deceased, is GRANTED. The exercise of this Court's power to grant an untimely motion to substitute a party is not unprecedented. State Farm Mutual Auto. Ins. Co. v. Campbell, 537 U.S. 1042 (2002); see also Schact v. United States, 398 U.S. 58, 63-64 (1970) ("The procedural rules adopted by the Court for the orderly transaction of its business are not jurisdictional and can be relaxed by the Court in the exercise of its discretion.."); Stern & Gressman, Supreme Court Practice 350 (8th ed. 2002). The Chief Justice and Justice Scalia would deny the motion, because it was filed more than six months after the petitioner's death. See Supreme Court Rule 35.1 ("If the substitution of a representative of the deceased is not made within six months after the death of the party, the case shall abate" (emphasis added)). The fact that Rule 35.1 is not jurisdictional is not a reason to ignore it, particularly since here, unlike in Campbell, supra, the motion was opposed by the respondent.
Oct 15 2007	SET FOR ARUMENT Tuesday, December 4, 2007.
Oct 19 2007	Brief of respondent Medtronic, Inc. filed.
Oct 19 2007	Brief amicus curiae of Chamber of Commerce of the United States of America filed.
Oct 19 2007	Brief amicus curiae of United States filed.
Oct 19 2007	Brief amici curiae of CropLife America, et al. filed.
Oct 19 2007	Brief amicus curiae of Washington Legal Foundation filed.
Oct 19 2007	Brief amicus curiae of Product Liability Advisory Council, Inc. filed.
Oct 19 2007	Brief amici curiae of Advanced Medical Technology Association, et al. filed.
Oct 26 2007	Motion of New York, et al. for leave to participate in oral argument as amici curiae and for divided argument filed.
Oct 30 2007	CIRCULATED.
Nov 2 2007	Motion of the Solicitor General for leave to participate in oral argument as amicus curiae and for divided argument filed.
Nov 6 2007	Opposition to motion of New York, et al. filed by petitioner.
Nov 9 2007	Motion of New York, et al. for leave to participate in oral argument as amici curiae and for divided argument DENIED.
Nov 9 2007	Motion of the Solicitor General for leave to participate in oral argument as amicus curiae and for divided argument GRANTED.
Nov 15 2007	Reply of petitioner Donna S. Riegel individually, and as administrator of the estate of Charles R. Riegel filed. (Distributed)
Dec 4 2007	Argued. For petitioner: Allison M. Zieve, Washington, D.C. For respondent: Theodore B. Olson, Washington, D.C.; and Edwin S. Kneedler, Deputy Solicitor General, Department of Justice, Washington, D.C. (for United States, as amicus curiae.)
Jan 16 2008	Letter received from the Solicitor General. (Distributed)